

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA

In re:

Steven Dale Deaton,

Chapter 7
Case No. 23-02527-5-PWM

Debtor.

UNOPPOSED MOTION TO SCHEDULE HEARING BY VIDEO OR TELEPHONE

Creditor MXR Imaging, Inc. (“MXR”), by and through undersigned counsel, files this unopposed motion to schedule the hearing on the Trustee’s objection to MXR’s proof of claim by phone or videoconference, pursuant to Local Rule 9074-1(a). In support of this motion, MXR states as follows:

1. On January 5, 2024, MXR filed its Proof of Claim, No. 8 (“Claim”), relating to damages suffered by MXR caused by the Debtor.
2. On January 16, 2024, the Trustee filed the Objection, objecting to the Claim because the amount of the Claim was stated as “Unknown.” (D.E. 53.)
3. On February 1, 2024, MXR filed its amended Claim, asserting the amount of the Claim is \$572,077.98. In the amended Claim, MXR provided a calculation of its damages against the Debtor relating to the action titled *MXR Imaging, Inc. v. EvoHealth LLC and Steven Deaton*, Case No. 5:23-cv440, pending in the United States District Court for the Eastern District of North Carolina (the “Pending Action”), for purposes of liquidating its Claim in response to the Objection.
4. On February 9, 2024, MXR filed a response in opposition to the Trustee’s objection to its proof of claim, arguing that the amendment, providing a liquidated calculation of damages, makes the objection moot and requesting that the Court overrule the objection. (D.E. 72.)

5. On February 12, 2024, the Court set a hearing on the Trustee's objection to MXR's proof of claim, to be held in person on March 12, 2024. (D.E. 74.)

6. Local Rule 9074-1(a) provides that "[t]he court may schedule any matter in a bankruptcy case, contested matter or adversary proceeding to be heard by video or telephone conference" and that "[a]ny party in interest affected by or involved in a case, matter or proceeding may request the court to hear the matter by telephone or video conference."

7. MXR hereby requests that the Court schedule the hearing on the Trustee's objection to MXR's proof of claim to occur by telephone or videoconference, pursuant to Local Rule 9074-1(a). Benjamin S. Morrell, outside counsel to MXR, is based in Chicago, Illinois; Paul R. Harris, outside counsel to MXR, is based in Cleveland, Ohio; and Robert P. Manetta, General Counsel for MXR, is based in New Jersey. Additionally, Mr. Morrell is scheduled to take a deposition in person in Chicago, Illinois on March 13, 2024—the day after the hearing in this Court—in another case currently pending in the United States District Court for the Northern District of Illinois. Thus, holding the hearing by telephone or videoconference would enable and/or facilitate attendance by all counsel for MXR.

8. MXR respectfully submits that these facts provide good cause to hold the hearing by telephone or videoconference.

9. On February 12, 2024, the undersigned counsel contacted the Trustee by email to inquire whether the Trustee objects to this motion. The Trustee stated he had no objection.

WHEREFORE, MXR respectfully requests this Court grant its unopposed motion and schedule the March 12, 2024 hearing on the Trustee's objection to MXR's proof of claim to occur by telephone or videoconference.

Filed: February 12, 2024

Respectfully Submitted,

MXR IMAGING, INC.

By: /s/ Benjamin S. Morrell

Benjamin S. Morrell (NC Bar No. 56676)

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Counsel for Creditor MXR Imaging, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the date listed below, I filed the foregoing document using the Court's CM/ECF system, which will effect service upon all counsel of record.

Date: February 12, 2024

By: /s/ Benjamin S. Morrell
Benjamin S. Morrell
Counsel for Creditor MXR Imaging, Inc.